

10 3 13. (Amended) A method of sealing the intersection between a first borehole and a second borehole extending from said first borehole comprising the steps of:

running into the first borehole an assembly comprising a housing and a tubular member within said housing, said housing having a window and said tubular member including a flange at an uphole end thereof, said flange being of larger dimension than said window;

maintaining said tubular member substantially within said housing during run in;

aligning said window of said housing with a position where the second borehole is to be formed and moving said tubular member from the run in position to a deployed position wherein said tubular member extends through said window and outward of said housing and wherein said flange is mated against the periphery of said window;

drilling the second borehole through said window and tubular member; and

urging said flange against the periphery of said window.

REMARKS

By way of this Amendment, Applicant has amended claims 11 and 13. Applicant has also re-presented claim 12 because that claim was not underlined in the preliminary amendment filed on September 4, 2001, as required in reissue applications, but that claim has not been amended. Claims 8-10 and 14 have been cancelled, and Applicant reserves the right to pursue those claims and the general subject matter of those claims in one or more continuation applications. Accordingly, the status of claims 1-14 is that claims 1-10 and 14 have been canceled and claims 11-13 are pending.

In the August 30, 2002, Office Action, Applicant was required under 35 U.S.C. § 121 to elect a single species for prosecution. The Examiner cited "the species of Figures 3-3c (claim 14) and the species of Figures 4 and 10 (claims 8-13)." The Examiner further asserted that no claim is generic. As indicated in the Office Action, Applicant elected, with traverse, to prosecute

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the species of Figures 4 and 10, corresponding to claims 8-13, and Applicant hereby affirms this election. Claim 14 has been cancelled and will be pursued in a continuation application.

In the outstanding Office Action claims 8-13 were rejected as being based upon the Examiner's belief that the reissue declaration was defective under 35 U.S.C. § 251. The Examiner objected to the Declaration because in the Examiner's view the Declaration failed to specifically identify at least one error being corrected in the reissue. The Examiner took the position that the error identified in paragraph 7 of the Reissue Application Declaration of Michel Gondouin was not specific enough.

Without accepting the Examiner's conclusion, Applicant submits with this Amendment the Supplemental Reissue Declaration of Michel Gondouin. The Supplemental Reissue Declaration specifically identifies in paragraph 7 at least one error being corrected. In particular, the Declaration identifies as an error that Applicant's patent protection need not be limited to an apparatus that includes a hydraulically-operated slot-cutting tool for selectively perforating the drainhole liner as claimed in independent claims 1, 2, and 3, or to a method including selectively perforating the uncemented lower part of the coiled tubing liner in situ using a hydraulically-operated slot-cutting tool as claimed in independent claim 7. The Declaration further states that these elements are not required in claims 11-13. Accordingly, the Supplemental Reissue Declaration satisfies 35 U.S.C. § 251 and 37 C.F.R. § 1.175(a), and Applicants respectfully request that the rejection based on a defective Declaration be withdrawn.

Claims 8, 9, 11, 13 were also rejected under 35 U.S.C. § 102(e) as being clearly anticipated by U.S. Patent No. 5,165,478 to Wilson et al. The Examiner asserted that the "claimed structure or method steps read exactly on the reference's when piston 120, 220, 320, 420, 520, 620, 720 or 820 in Wilson '478 is considered the 'production pipe' as recited." Claims

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10, and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Wilson '478, alone, or in view of U.S. Patent No. 3,461,977 to Taggart or U.S. Patent No. 3,390,724 Caldwell.

Applicant respectfully disagrees with these rejections.

The pistons identified by the Examiner in the Wilson '478 patent are not production pipes as claimed. The pistons are part of the centralizers that "work in cooperative effort to centralize the casing 60 in the wellbore W." (Col. 3, lines 44-45.) For instance, piston 120 is part of centralizer 50. (Col. 4, lines 54-57.) And while piston 12 has an internal passageway it is not located at a second borehole or where a second borehole is to be formed. While Wilson '478 seeks to allow passage of fluids from the formation through the casing, that does not turn the pistons into production pipes. Wilson '478 nowhere suggests a second borehole or positioning the pistons at a second borehole. Instead, Wilson '478 merely seeks to allow passage of fluids straight from the formation into wellbore. To further facilitate passage of fluids straight from the formation, Wilson '478 teaches perforating the casing by detonating explosives. This does not amount to a secondary borehole but only perforations or holes in the casing.

In any event, Applicant has amended claims 11 and 13 to recite the step of drilling the secondary borehole. As discussed above, Wilson '478 nowhere suggests drilling a secondary borehole. Even the perforations identified by the Examiner as boreholes were formed by detonating explosives, not by drilling a borehole. During an interview held on November 4, 2002, the Examiner agreed that claims 11 and 13 would distinguish over Wilson '478 if they were amended to include drilling of the lateral borehole, as indicated in the Interview Summary. Accordingly, claims 11-13 patentably distinguish from the prior art. Applicant acknowledges with appreciation the interview (summarized in the Examiner's Interview Summary) and the Examiner's indication of allowable subject matter. At the same interview, the Examiner did not

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agree that claims 8-9 distinguished from Wilson '478. Applicant disagrees and reserves the right to pursue those claims in a continuation application.

As described in the Preliminary Amendment filed on September 4, 2002, claims 11-13 as originally presented corresponded to claims 4-7 and 20 of U.S. Patent No. 5,787,987, but claims 11-13 were in method format. As amended, claims 11-13 are patentably distinct from and not interfering with the '987 patent claims. Specifically, the '987 patent does not disclose at least running into the first borehole an assembly comprising a housing and a tubular member within said housing, said housing having a window, and drilling the second borehole through the window of the housing, as required in claim 11, or running into a first borehole an assembly comprising a housing and a tubular member within said housing, said housing having a window, and drilling the second borehole through said window and tubular member, as required in claim 13. As a result, Applicant submits that claims 11-13 are supported by Applicant's disclosure and patentably distinct from the '987 patent, as well as the prior art, and are, therefore, in condition for allowance.

In the August 30, 2002, Office Action, the Examiner also identified a typographical error in the specification, which has been corrected by way of this Amendment. In addition, Applicant has amended the specification to identify all other continuation reissue applications. Also, the Examiner approved the proposed drawing changes filed on September 2, 2001, and requested that Applicant submit corrected drawings. Accordingly, Applicant files herewith a Submission of Formal Drawings, which includes the changes to Figs. 3, 4, 6, and 10 approved by the Examiner. Finally, Applicant submits a copy of "Exhibit O" from the Information Disclosure Statement filed April 4, 2002. At the request of the Examiner, on June 27, 2002, in connection with sister reissue application 09/824,738, Applicant had provided copies of the references cited

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in the Information Disclosure Statement, which had previously been submitted in the parent reissue application. The Examiner indicated in the outstanding Office Action that Exhibit O was inadvertently omitted from the materials he received. Accordingly, a copy of Exhibit O, which is the Natural Reserves Group, Inc. v. Baker Hughes, Inc., 96-31380, docket sheet, is provided with this Amendment.

In view of the foregoing amendments and remarks, Applicant respectfully requests the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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Dated: January 29, 2003

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